

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE**

DANIEL LOVELACE and
HELEN LOVELACE, Individually, and as Parents of
BRETT LOVELACE, deceased,

Plaintiffs,

Vs.

No. 2:13-cv-02289 SHL - dkv
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI; and
MARK P. CLEMONS,

Defendants.

DEFENDANTS' JOINT MOTION IN LIMINE NO. 4

Come now the defendants, Pediatric Anesthesiologists, P.A., Babu Rao Paidipalli, M.D., and Mark P. Clemons, M.D., by and through counsel of record, and move this Court in limine for an order excluding and disallowing any testimony of any lay witnesses regarding the alleged negligence of defendants or injuries or extent of injuries sustained by Brett Lovelace as a result of the incident at issue. Lay witnesses are not qualified under the Medical Malpractice Act or the Federal Rules of Evidence to offer opinions as to the recognized standard of professional practice applicable to defendant or any deviation or resultant injury as a result thereof. TCA § 29-26-115, 29-26-119; Fed. R. Evid. 602, 702. Such testimony would only be confusing to the jury since said proof is not competent evidence under Tenn. Code Ann. § 29-26-115. Accordingly, this incompetent evidence is irrelevant and, any probative value is outweighed by the potential confusion and prejudice to defendants under the federal rules. Fed. R. Evid. 401 and 403.

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CERTIFICATE OF CONSULATION

Pursuant to Local Rule 7.2(a)(1)(B), I hereby certify that on January 6th, 2015, counsel for defendants, Babu Rao Paidipalli and Pediatric Anesthesiologists, P.A., consulted with Mark Ledbetter, counsel for plaintiffs, Daniel and Helen Lovelace, via e-mail concerning the contents of this motion, and that all counsel are unable to reach an accord as to all issues pertaining to this motion.

s/W. Bradley Gilmer

W. BRADLEY GILMER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served via U.S. Mail to all counsel of record identified below:

Mark Ledbetter, Esq.
Halliburton & Ledbetter
Attorney for Plaintiffs
254 Court Avenue
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this 6th day of January, 2015.

s/ W. Bradley Gilmer

W. BRADLEY GILMER